**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**

**MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929**

**Crl.Rev.Pet.No. 218 of 1998**

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**CRL.A.379/1995 OF SESSIONS COURT, THALASSERY,**
**CC.504/1993 OF JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR**

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**REVISION PETITIONER/APPELLANT/ACCUSED:**

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**P.P. SIVASWAMI, S/O. PAZHANI CHETTIAR,**
**KONDAZHI, THRISSUR.**

**BY ADV. SRI.M.P.ASHOK KUMAR,**
**SRI.P.NARAYANAN.**

**RESPONDENTS/RESPONDENTS/COMPLAINANT:**

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1. **A.V. KUNHAMBU, PROPRIETOR,**
   **M/S. SOUMYA, BELLARD ROAD,**
   **KANNUR.**

2. **STATE OF KERALA, REP. BY THE**
   **PUBLIC PROSCUTOR,**
   **HIGH COURT OF KERALA,**
   **ERNAKULAM.**

**BY ADV. SRI.K.G.BALASUBRAMANIAN FOR R1,**
**PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR.**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/07/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**J.B.KOSHY, J.**

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Crl.R.P.No.218 OF 1998

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Dated 16th July, 2007

**ORDER**

The case of the complainant is that he was conducting whole sale cloth business at Kannur. The accused used to buy clothes from the complainant on credit basis. On settlement of the account, the accused issued a cheque for Rs.81,306/=. When the cheque was presented before the bank, it was dishonoured for insufficiency of funds. It has been proved that the complaint was filed after complying with all formalities like issuance of notice etc. The Bank Manager was examined to show that Ext.P1 cheque was dishonoured for insufficiency of funds. Cheque was for consideration of the amount due to the complainant. I see no ground to differ from the concurrent findings of the courts below. It is submitted that sentence imposed is on the right side. The sentence imposed was imprisonment for one year. The complainant is more interested in getting his money back than putting the petitioner in prison. In the above circumstances, even though conviction is confirmed, sentence is converted as imprisonment for three months and a compensation of Rs.1,00,000/=. However, since the offence under section 138 of the Negotiable Instruments Act is now

compoundable, the imprisonment shall be enforced only if the case is not compounded within two months from today. If the case is compounded or settled between the parties within two months, petitioner can approach this court for recording the settlement.

The revision petition is disposed of accordingly.

**J.B.KOSHY**
**Judge**

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